

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

JIMMY SOSA,

Defendant.

03 Cr. 502 (JGK)

MEMORANDUM OPINION
AND ORDER

JOHN G. KOELTL, District Judge:

The defendant has moved for a reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2) in view of the fact that the United States Sentencing Guidelines for offenses involving crack cocaine have been reduced by two levels and the Sentencing Commission has determined that, effective March 3, 2008, the revised Guidelines may be applied to defendants who had been sentenced under the higher Guidelines. See § 1B1.10(a).

The defendant was sentenced by this Court on April 6, 2006 principally to 62 months imprisonment. This was based on an Offense Level of 26 under § 2D1.1 of the Guidelines for the amount of crack cocaine involved in the offense, and a two level enhancement under § 3C1.1 for obstruction of justice producing an Offense Level of 28, a Criminal History Category of I, and a Guideline Sentencing Range of 78 to 97 months. After applying the factors in 18 U.S.C. §3553(a), the Court imposed a sentence principally of 62 months imprisonment. In view of the two level decrease in the Offense Level for crack cocaine under § 2D1.1,

the defendant's Offense Level would now be 26, the Criminal History Category would remain I, and the defendant's Guideline Sentencing Range would be 63 to 78 months. There is a mandatory minimum sentence of 60 months imprisonment under 21 § U.S.C. §841(b) (1) (B) which formed the basis for one of the Counts of conviction. Applying the same proportionate decrease from the Sentencing Guideline Range that the Court applied at the time of sentence, would produce a sentence no greater than the statutory mandatory minimum of 60 months imprisonment. Therefore, applying the factors under 18 U.S.C. §3553(a), as the Court did at the time of sentencing, and as required by 18 U.S.C. §3582(c) (2), the Court finds that a sentence of 60 months imprisonment is the reasonable and appropriate sentence.

The Government forthrightly does not oppose a reduction in the defendant's sentence to 60 months imprisonment.

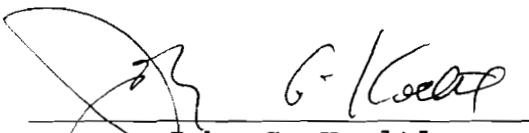
This is a case in which time is particularly important because, as the Government points out, the defendant is otherwise scheduled to be released on May 27, 2008, and the Bureau of Prisons will be required to make arrangements for the prompt release of the defendant. Therefore, the Court will enter an Amended Judgment of Conviction, effective March 3, 2008, reducing the defendant's sentence of imprisonment to 60 months. All other terms of the Judgment of Conviction will remain unchanged.

The Court has also copied the submissions on the present pro

se motion to counsel for the defendant at the time of his sentence and welcomes any further submissions.

SO ORDERED.

Dated: New York, New York
 February 5, 2008


John G. Koeltl
United States District Judge